

N592CAR1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 E. JEAN CARROLL,

5 Plaintiff,

New York, N.Y.

6 v.

22 Civ.10016 (LAK)

7 DONALD J. TRUMP,

8 Defendant.

9 -----x

Jury Trial

10 May 9, 2023

11 10:05 a.m.

12 Before:

13 HON. LEWIS A. KAPLAN,

14 District Judge  
15 and a Jury

16 APPEARANCES

17 KAPLAN HECKER & FINK LLP

18 Attorneys for Plaintiff

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Attorney for Defendant

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(Trial resumed; jury not present)

THE COURT: Good morning, everyone.

COUNSEL: Good morning, your Honor.

THE COURT: Before I bring the jury in, I want to alert you to the fact—and my law clerk will distribute copies to counsel—that I am intending to make a small change in I think it's the last paragraph of the proposed charge, the next to last paragraph, headed "Juror Oath." I will give you a second to read it. It's only a couple of paragraphs.

(Pause)

THE COURT: Okay. Ms. Kaplan, any objection to that?

MS. KAPLAN: No objection, your Honor.

THE COURT: Any objection, Mr. Brandt?

MR. BRANDT: No, your Honor.

THE COURT: Okay, fine. Let's bring in the jury.

We still have the issue of that slide and it will be our Court Exhibit C, but we will do that after the jury retires, I think, and before that exhibit goes in, if it does. Bring in the jurors.

THE DEPUTY CLERK: Ladies and gentlemen in the spectator gallery, the Court is about to charge the jury. You must either remain seated throughout the duration of the charge or leave at this time.

(Jury present)

THE COURT: Good morning, folks. I hope everybody had

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1 a relaxing evening.

2 The record will reflect the jurors are all present.

3 Members of the jury, we have reached the point in the  
4 trial where you are going to begin your final function as  
5 jurors. My instructions to you are going to be in four parts.

6 First of all, your verdict in this case will be in the  
7 form of answers to questions on a verdict form, and I'm going  
8 to ask Aditi to pass out copies of the verdict form to you so  
9 that you can follow along.

10 I should say also that I will send in to the jury  
11 room, when you retire to deliberate, a typewritten copy of the  
12 entire set of instructions I am giving you, so you are free to  
13 take notes or not, whatever suits you.

14 In the course of my instructions, I, of course, am  
15 going to explain the verdict form and the law that applies to  
16 it. I will instruct you about the trial process, including the  
17 burden of proof. I will give you instructions concerning your  
18 evaluation of the evidence and my final words to you will be  
19 with respect to the conduct of your deliberations.

20 Now, of course you know that the plaintiff in this  
21 case, E. Jean Carroll, is suing the defendant, Donald Trump,  
22 for money damages for injuries she claims to have suffered as a  
23 result of an alleged incident with Mr. Trump in a New York  
24 department store in the mid 1990s and as a result of an  
25 allegedly defamatory statement Mr. Trump made about her in

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1 October 2022.

2 In support of the first claim, Ms. Carroll alleges  
3 that Mr. Trump recognized her at the department store and asked  
4 her to help him select a present for a woman who was not at the  
5 store. The two of them allegedly went to the lingerie  
6 department, where Mr. Trump allegedly insisted that Ms. Carroll  
7 try on a bodysuit, and she allegedly responded that he should  
8 try it on himself. According to Ms. Carroll, the pair  
9 allegedly went to a dressing room and Mr. Trump allegedly  
10 closed the dressing room door. Ms. Carroll claims that  
11 Mr. Trump then pushed her against the wall and kissed her  
12 without her consent. After she allegedly pushed him away and  
13 laughed at him, she claims that he pushed her against the wall  
14 again, pulled down her tights, and forcibly raped her before  
15 she managed to push him away and flee the store. Ms. Carroll  
16 claims that this alleged conduct by Mr. Trump constituted a  
17 battery as that term is used in the civil, as opposed to  
18 criminal, context in this case. Mr. Trump, as you know, denies  
19 that this ever happened.

20 Now, the second claim in the case is based on a  
21 statement Mr. Trump posted on social media on October 12, 2022,  
22 in which he said that he didn't know Ms. Carroll, that her  
23 story is a "Hoax and a lie," and that she changed her story  
24 from the beginning to the end in an interview on CNN while she  
25 was promoting her book in which she described the alleged

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1 incident with Mr. Trump, among other things. Ms. Carroll  
2 claims that Mr. Trump's statement was false and defamatory and  
3 that she suffered reputational, emotional, and professional  
4 harm as a result of his statement. Mr. Trump denies that his  
5 statement was false or defamatory.

6 Now, I'm just going to cover something that I, in  
7 part, anyway, covered right at the beginning of the case, but  
8 two weeks have gone by, and so I'm going to cover it just  
9 briefly again.

10 Ms. Carroll's first claim is called a claim for  
11 battery. I explained to you before what a battery claim is in  
12 the context of a civil lawsuit. Ms. Carroll's claim that  
13 Mr. Trump raped her is a civil battery claim that she was  
14 permitted to bring in this case because it falls under a new  
15 law that New York enacted in 2022, called the Adult Survivors  
16 Act. Under the Adult Survivors Act, persons who allegedly were  
17 abused sexually as adults, but whose time within which to sue  
18 for damages for any such abuse had expired, were given a new  
19 one-year period within which to sue their alleged abusers. The  
20 Adult Survivors Act thus "revived," in common language, claims  
21 that otherwise might have expired.

22 Now, the Adult Survivors Act defines the kinds of  
23 sexual misconduct for which that statute temporarily revived  
24 the ability to bring civil lawsuits for damages, and it did it  
25 by referring to the criminal law definitions of certain sex

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1 crimes. Ms. Carroll claims that Mr. Trump is liable to her for  
2 battery on three different and alternative bases, each of which  
3 corresponds to a criminal law definition of a different sex  
4 crime. Mr. Trump denies that he is liable to her for battery  
5 on any of these three different and alternative bases.  
6 Accordingly, the first set of questions in the verdict form has  
7 to do with whether or not Ms. Carroll has established that  
8 Mr. Trump's conduct, if any, came within any of those criminal  
9 law definitions. But I emphasize to you that this is a civil  
10 case for damages. It is not a criminal case.

11 Now, if you look on the verdict form, you will see the  
12 first question is whether Ms. Carroll proved by a preponderance  
13 of the evidence that Mr. Trump raped her. It's a yes/no  
14 question. I am going to explain the preponderance of the  
15 evidence standard, which is incorporated in that question,  
16 later on. But right now I am going to tell you the required  
17 elements of rape under the New York law.

18 In order to establish that Mr. Trump raped her,  
19 Ms. Carroll must prove each of two elements by a preponderance  
20 of the evidence.

21 The first element is that Mr. Trump engaged in sexual  
22 intercourse with her.

23 The second element is that Mr. Trump did so without  
24 Ms. Carroll's consent by the use of forcible compulsion. So  
25 let me define each one of those terms.

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1 "Sexual intercourse" means any penetration, however  
2 slight, of the penis into the vaginal opening. In other words,  
3 any penetration of the penis into the vaginal opening,  
4 regardless of the distance of penetration, constitutes an act  
5 of sexual intercourse. Sexual intercourse does not necessarily  
6 require erection of the penis, emission, or an orgasm.

7 Now, of course, I hope you will forgive me for this  
8 very explicit language, but I have no alternative—nobody has  
9 in this case—in discussing the elements of the alleged  
10 battery.

11 I also used the phrase "forcible compulsion," and what  
12 that means is intentionally to compel by the use of physical  
13 force.

14 If you find that Ms. Carroll has proved by a  
15 preponderance of the evidence both of those two elements, you  
16 will answer Question 1 "yes." If you answer Question 1 "yes,"  
17 I instruct you that Mr. Trump thus committed battery against  
18 Ms. Carroll. There would be no need to consider whether he  
19 committed battery on either of the other two alternative bases.  
20 Remember, I said there were three alternatives. So if you  
21 answer Question 1 "yes," you will skip question 2 and question  
22 3 on the verdict form and go right on to question 4. If you  
23 find that Ms. Carroll has not proven either of the two elements  
24 of rape by a preponderance of the evidence, you must answer  
25 "no" to Question 1 and go on to Question 2, which deals with

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1 the second of the three alternative bases for the battery  
2 claim.

3 The second theory of battery corresponds to something  
4 called sexual abuse. Sexual abuse has two elements. In order  
5 to establish that Mr. Trump sexually abused her, Ms. Carroll  
6 must prove each of two elements by a preponderance of the  
7 evidence.

8 The first element is that Mr. Trump subjected  
9 Ms. Carroll to sexual contact.

10 The second element is that he did so without  
11 Ms. Carroll's consent by the use of forcible compulsion.

12 So let me define "sexual contact" for you. Sexual  
13 contact for this purpose means any touching of the sexual or  
14 other intimate parts of a person for the purpose of gratifying  
15 the sexual desire of either person. It includes the touching  
16 of the actor by the victim, as well as the touching of the  
17 victim by the actor, and the touching may be either directly or  
18 through clothing.

19 Now, I just used the term or the phrase "sexual or  
20 intimate part" in defining sexual contact. For this purpose, a  
21 "sexual part" is an organ of human reproduction.

22 So far as intimate part is concerned, the law does not  
23 specifically define which parts of the body are intimate.  
24 Intimacy, moreover, is a function of behavior and not just  
25 anatomy. Therefore, if any touching occurred, the manner and



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1 circumstances of the touching may inform your determination  
2 whether Mr. Trump touched any of Ms. Carroll's intimate parts.  
3 You should apply your common sense to determine whether, under  
4 general societal norms and considering all the circumstances,  
5 any area or areas that Mr. Trump touched, if he touched any,  
6 were sufficiently personal or private that it would not have  
7 been touched in the absence of a close relationship between the  
8 parties.

9 I mentioned also that the touching, if any, of any  
10 sexual or intimate parts must have been for the purpose of  
11 gratifying the sexual desire of either party. Sexual  
12 gratification is a subjective determination that may be  
13 inferred from the nature of the acts committed and the  
14 circumstances in which they occurred. There is no requirement  
15 that actual gratification occur, but only that the touching, if  
16 there was any, was for that purpose.

17 The second element of this theory is forcible  
18 compulsion. I defined that for you a couple of minutes ago  
19 when I told you the elements of rape, and here, as there, it  
20 means intentionally to compel by the use of physical force.

21 If you find that Ms. Carroll has proved by a  
22 preponderance of the evidence both of the two elements that I  
23 just referred to, the two elements of sexual abuse, then you  
24 will answer "yes" to Question 2. If you answer yes to Question  
25 2, I instruct you that Mr. Trump thus committed battery against

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1 Ms. Carroll. There would be no need to consider whether he  
2 committed battery on the third alternative test. So if you  
3 answer Question 2 "yes," you therefore will skip Question 3 and  
4 go on to Question 4. If you find that Ms. Kaplan has not  
5 proven either of the two elements of sexual abuse by a  
6 preponderance of the evidence, you must answer "no" to  
7 Question 2 and proceed to Question 3, which deals with the  
8 third of the three alternative bases for the battery claim.  
9 And if you will forgive me for a minute, I'm going to get a  
10 drink of water.

11 The third alternative of battery is something called  
12 forcible touching.

13 Forcible touching occurs when a person intentionally,  
14 and for no legitimate purpose, forcibly touches the sexual or  
15 intimate parts of another person for the purpose of degrading  
16 or abusing that person or for the purpose of gratifying the  
17 actor's sexual desire. It has five elements.

18 The first element is that Mr. Trump touched a sexual  
19 or intimate part or parts of Ms. Carroll. I have already  
20 defined the terms "sexual or intimate parts," and you will  
21 apply that definition here on the issue of forcible touching.

22 The second element of forcible touching, as the name  
23 implies, is that the touching of any of Ms. Carroll's sexual or  
24 intimate part or parts, if any occurred, must have been  
25 forcible. Forcible touching includes squeezing, grabbing,

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1 pinching, rubbing, or other bodily contact that involves the  
2 application of some level of pressure to the victim's sexual or  
3 intimate parts. Any bodily contact involving the application  
4 of some level of pressure to another person's sexual or  
5 intimate parts qualifies as forcible touching.

6 The third element of forcible touching is that the  
7 forcible touching, if any, was intentional. "Intent" means  
8 conscious objective or purpose. Thus, a person intentionally  
9 forcibly touches the sexual or intimate parts of another person  
10 when that person's conscious objective or purpose is to do so.

11 The fourth element of forcible touching requires that  
12 the forcible touching, if there was any, of Ms. Carroll by  
13 Mr. Trump must have been for the purpose of degrading or  
14 abusing her or for the purpose of gratifying Mr. Trump's sexual  
15 desire. I have already defined the term "sexual  
16 gratification," and you will apply that instruction here in  
17 deciding whether Ms. Carroll has proved that Mr. Trump forcibly  
18 touched her for the purpose of gratifying his sexual desire.  
19 If you do not find that the forcible touching of Ms. Carroll,  
20 if there was any, was for the purpose of gratifying Mr. Trump's  
21 sexual desire, you must consider whether the forcible touching,  
22 if any, was for the purpose of degrading or abusing  
23 Ms. Carroll.

24 The fifth and final element is that the forcible  
25 touching, if there was any, was committed without consent.

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1     Forcible touching takes place without a person's consent when  
2     it results from any circumstances in which a person does not  
3     expressly or impliedly acquiesce to the actor's conduct.

4             If you find that Ms. Carroll has proved by a  
5     preponderance of the evidence all five of these elements, of  
6     forcible touching, you will answer Question 3 "yes." If you  
7     answer Question 3 "yes," I instruct you that Mr. Trump thus  
8     committed battery against Ms. Carroll. In that event, you will  
9     go on to Question 4. If you find that Ms. Carroll has not  
10    proven one or more of the elements of forcible touching by a  
11    preponderance of the evidence, you must answer "no" to  
12    Question 3. You will skip Questions 4 and 5 and go on to  
13    Question 6, which begins the questions relating to  
14    Ms. Carroll's defamation claim.

15            But let me now instruct you on Questions 4 and 5.

16            Questions 4 and 5 deal with the subject of damages in  
17    relation to Ms. Carroll's battery claim. My instructions to  
18    you on the law of damages should not be taken by you as a hint  
19    that you should find for the plaintiff. That is for you to  
20    decide by answering the questions I have put to you based on  
21    the evidence presented. But if you answer "yes" to any of  
22    Question 1, Question 2, or Question 3, you will have determined  
23    that Ms. Carroll has prevailed on her claim of battery. In  
24    that event, it will be your task to determine from the evidence  
25    a dollar amount, if any, that would justly and adequately

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1 compensate Ms. Carroll for any physical injury, pain and  
2 suffering, and mental anguish, as well as emotional distress,  
3 fear, personal humiliation, and indignation that she has  
4 suffered, or will suffer in the future, as a result of  
5 Mr. Trump's alleged rape, sexual abuse, or forcible touching as  
6 the case may be.

7           You may award damages only for those injuries that you  
8 find Ms. Carroll has proved by a preponderance of the evidence.  
9 Compensatory damages may not be based on speculation or  
10 sympathy. They must be based on the evidence presented at  
11 trial and only on that evidence.

12           Now, if you answer "yes" to Question 4—and here I  
13 invite your attention to the verdict form—in other words, if  
14 you conclude that Ms. Carroll has proved by a preponderance of  
15 the evidence that she was injured as a result of any of the  
16 three theories of battery by Mr. Trump that I have already  
17 explained, she would be entitled to a dollar amount to  
18 compensate her adequately and fairly for any physical injury,  
19 pain and suffering, mental anguish, emotional distress, and the  
20 other things I just mentioned a moment ago, that she suffered  
21 by virtue of Mr. Trump's alleged battery, in other words, his  
22 alleged rape, sexual abuse, or forcible touching, as the case  
23 may be. Damages may be awarded based on a plaintiff's  
24 subjective testimony of pain, but the plaintiff's proof must  
25 satisfactorily establish that the injury is more than minimal.

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1 So if you answer Question 4 "yes," you will determine the  
2 amount that would fairly and adequately compensate Ms. Carroll  
3 for the injuries she allegedly sustained as a result of  
4 Mr. Trump's battery and enter that amount in the space provided  
5 in Question 4 of the verdict form, which is right down at the  
6 bottom of page 1.

7 On the other hand, if you answer "no" to Question  
8 4—that is, if you decide that Ms. Carroll has not proved by a  
9 preponderance of the evidence that she was injured as a result  
10 of Mr. Trump's conduct, if any—you will write down in the  
11 blank space provided on your form, and it appears at the top of  
12 page 2, the figure \$1. That represents nominal damages.

13 Regardless of your answers to Question 4, you will go  
14 on to Question 5.

15 Question 5 deals with the subject of punitive damages.

16 In the event you find Mr. Trump liable to Ms. Carroll  
17 for battery—that is, for rape, sexual abuse, or forcible  
18 touching—you may, but you are not required to, award  
19 Ms. Carroll punitive damages in addition to any compensatory  
20 damages that you may award.

21 You may award punitive damages if Ms. Carroll proved  
22 by a preponderance of the evidence that Mr. Trump's conduct, if  
23 any, that caused Ms. Carroll's alleged injury was wanton and  
24 reckless or done with a conscious disregard for Ms. Carroll's  
25 rights. Punitive damages may be awarded for conduct that

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1 reflects a high degree of immorality. The purpose of punitive  
2 damages is not to compensate the plaintiff. It is to punish  
3 the defendant for wanton and reckless acts or acts done with a  
4 conscious disregard for the rights of the plaintiff, and  
5 thereby to discourage the defendant and other people like him  
6 from acting in a similar way in the future.

7         The first part of Question 5 asks you to determine  
8 whether Ms. Carroll has proved by a preponderance of the  
9 evidence that Mr. Trump's conduct, if any, was done with  
10 willful or wanton negligence, or recklessness, or a conscious  
11 disregard of the rights of Ms. Carroll, or was so reckless as  
12 to amount to such conscious disregard. "Wantonly" means  
13 causelessly, without restraint, and in reckless disregard of  
14 the rights of others. "Willfully" means with knowledge that  
15 the conduct would result in a violation of a known legal duty.  
16 "Negligence" means the omission to perform a duty as well as  
17 the commission of an act that would violate a duty. You are  
18 instructed that Mr. Trump had a duty to exercise reasonable  
19 care not to injure Ms. Carroll. A person acts "recklessly"  
20 when he or she is aware of and consciously disregards a  
21 substantial and unjustifiable risk—a risk that is of such a  
22 nature and degree that disregarding it constitutes a gross  
23 deviation from the standard of conduct that a reasonable person  
24 would observe in the situation.

25         If you answer "yes" to the first part of Question

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5—in other words, if you find that Ms. Carroll has proved by a preponderance of the evidence that Mr. Trump's conduct, if any, was willfully or wantonly negligent, reckless, or done with a conscious disregard of the rights of Ms. Carroll, or was so reckless as to amount to such disregard—you will write down an amount, if any, that you find that Mr. Trump should pay to Ms. Carroll in punitive damages.

In arriving at your decision as to the amount of punitive damages, you should consider the nature and represent reprehensibility of what Mr. Trump allegedly did, in other words, what you find he did that got you to this point. That would include:

The character of the alleged wrongdoing;

Include whether Mr. Trump's alleged conduct demonstrated an indifference to, or a reckless disregard of, the health, safety, or rights of others;

Whether Mr. Trump's conduct was -- alleged conduct was done with an improper motive or with vindictiveness;

Whether the alleged act or acts constituted outrageous or oppressive intentional misconduct;

How long the conduct went on;

Mr. Trump awareness of what harm the alleged conduct caused or was likely to cause;

Mr. Trump's financial condition and the impact any punitive damages award would have on Mr. Trump;



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1           Whether and how often Mr. Trump has committed similar  
2 acts of this type in the past and the actual and potential harm  
3 inflicted or created by Mr. Trump's conduct, alleged conduct,  
4 including the harm to individuals or entities other than  
5 Ms. Carroll.

6           Importantly, with respect to that last consideration,  
7 although you may consider the harm, if any, to individuals or  
8 entities other than Ms. Carroll in determining the extent to  
9 which Mr. Trump's conduct was reprehensible, and to that extent  
10 relevant to whether to award punitive damages and any amount  
11 thereof, you may not add a specific amount to your punitive  
12 damage award, if you make one, to compensate persons other than  
13 Ms. Carroll or to punish Mr. Trump for any harm that Mr. Trump  
14 caused, if he did cause any harm, to others. The amount of  
15 punitive damages that you award must be both reasonable and  
16 proportionate to the actual and potential harm suffered by  
17 Ms. Carroll, and to the compensatory damages, if any, that you  
18 award to Ms. Carroll.

19           Now, those are my instructions on the battery claim.  
20 We still have the defamation claim to go and then the remainder  
21 of my discussion of the trial process and your deliberation.  
22 To give you an idea, just because I know it is hard to sit --  
23 first of all, let me invite you, if you want to stand up for a  
24 minute, to do so. I think I need to stand up myself. I know  
25 it is hard always to listen without standing. Sit or stand as

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1 ever you wish. I'm going to sit down in just a minute. And we  
2 are about 40 percent of the way through what I have to say to  
3 you this morning.

4 So now we are going to go on to the questions in the  
5 verdict form, which are Questions 6 through 10, which deal with  
6 Ms. Carroll's defamation claim in relation to Mr. Trump's  
7 October 12, 2022 statement, and more specifically to the parts  
8 of that statement about Ms. Carroll. Under New York law, there  
9 are two categories of defamation. One of them is called libel.  
10 Written statements, like Mr. Trump's October 12, 2022  
11 statement, the law regards as libel. I'm telling you this only  
12 because I may use the terms "defamation" and "libel"  
13 interchangeably in my instructions, and it means the same thing  
14 as far as you are concerned for purposes of this case.

15 Now, you have seen and heard Mr. Trump's October 12  
16 statement at various points in the course of this trial. And  
17 if memory serves, you will have it in the jury room. To remind  
18 you, that statement, which Ms. Carroll alleges was defamatory,  
19 read as follows: "This 'Ms. Bergdorf Goodman case' is a  
20 complete con job . . . She completely made up a story that I  
21 met her at the doors of this crowded New York City department  
22 store and, within minutes, 'swooned' her. It is a Hoax and a  
23 lie. . . . She has no idea what day, what week, what month,  
24 what year, or what decade this so-called 'event' supposedly  
25 took place. The reason she doesn't know is because it never

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1 happened, and she doesn't want to get caught up with details or  
2 facts that can be proven wrong. If you watch Anderson Cooper's  
3 interview with her, where she was promoting a really crummy  
4 book, you will see that it is a complete Scam. She changed her  
5 story from beginning to end, after the commercial break, to  
6 suit the purposes of CNN and Andy Cooper. . . . In the  
7 meantime, and for the record, E. Jean Carroll is not telling  
8 the truth, is a woman who I had nothing to do with, didn't  
9 know, and would have no interest in knowing her if I ever had  
10 the chance."

11 Now, there are several elements that Ms. Carroll has  
12 the burden of proving for her to recover damages for libel, and  
13 I'm going to instruct you on each one as we go through the  
14 verdict form.

15 Question 6 asks whether Ms. Carroll has proved by a  
16 preponderance of the evidence that Mr. Trump's statement was  
17 defamatory. A statement is defamatory if it tends to disparage  
18 a person in the way of that person's business or office or  
19 profession or trade. It is also defamatory if it tends to  
20 expose someone to hatred or contempt or aversion or to induce  
21 an evil or an unsavory opinion of that person in the minds of a  
22 substantial number of people in the community, even though it  
23 may impute no moral turpitude to the person.

24 Now, not every unpleasant or uncomplimentary statement  
25 is defamatory. A statement that is merely unpleasant, or

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1 offensive, or embarrassing, or that hurts someone's feelings,  
2 isn't necessarily defamatory. Because language often has  
3 different meanings, the law imposes on the plaintiff the burden  
4 of proving that the October 12, 2022 statement about the  
5 plaintiff in fact would have been understood by the average  
6 person as defamatory, as I defined that word a minute ago.

7 If Ms. Carroll has proved by a preponderance of the  
8 evidence that Mr. Trump's October 12, 2022 statement was  
9 defamatory, you will answer "yes" to Question 6 and go on to  
10 Question 7. If you answer it "no," your task ends right there  
11 and you will return your verdict in the manner that I am going  
12 to describe later.

13 Question 7 asks whether Ms. Carroll has proved by  
14 clear and convincing evidence that Mr. Trump's statements about  
15 her were false. I will explain later -- and I just want to  
16 make sure. I want to correct myself. I misspoke.

17 Question 7, as you see on the verdict form, asks  
18 whether Ms. Carroll has proved by something called clear and  
19 convincing evidence that Mr. Trump's statement was false. I am  
20 going to explain clear and convincing evidence, which is  
21 different from a preponderance of the evidence, in a short  
22 while. A statement is false if it is not substantially true.  
23 You will determine from the evidence presented what the truth  
24 was and then compare that with Mr. Trump's October 12  
25 statement, taking that statement according to its ordinary

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1 meaning, the ordinary meaning of its words.

2 As you probably already have guessed, whether  
3 Mr. Trump's statement is false or true depends largely or  
4 entirely on whether you find that Mr. Trump raped or sexually  
5 abused or forcibly touched or otherwise sexually attacked  
6 Ms. Carroll.

7 If Ms. Carroll has proved by clear and convincing  
8 evidence that Mr. Trump's October 12, 2022 statement was false,  
9 you will answer Question 7 "yes" and go on to Question 8. If  
10 you answer it "no," your task ends there, and you will return  
11 your verdict as I will instruct you.

12 Question 8, in substance, asks you to determine  
13 whether Ms. Carroll has proved by clear and convincing evidence  
14 that Mr. Trump made the statement with what the law calls  
15 actual malice. Actual malice for this purpose—and I want to  
16 alert you to the fact that it means something different from  
17 malice in a different context that I am going to speak to you  
18 about in a few minutes—means that Mr. Trump made the statement  
19 knowing that it was false or acted in reckless disregard of  
20 whether or not it was true. Reckless disregard means that when  
21 he made the October 12 statement, he had serious doubts as to  
22 the truth of the statement or made the statement with a high  
23 degree of awareness that it was probably false. So Question 8  
24 asks you to decide whether Ms. Carroll proved by clear and  
25 convincing evidence that Mr. Trump, when he made his October 12

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1 statement, knew that it was false, had serious doubts as to its  
2 truth, or had a high degree of awareness that the statement  
3 probably was false.

4 Just making a note to fix a typo before it goes in to  
5 you.

6 If you so find, you will answer "yes" to Question 8  
7 and go on to Questions 9 and 10, which deal with damages for  
8 the defamation claim. If you answer Question 8 "no," your task  
9 ends there, and you will return your verdict as I will  
10 instruct.

11 Question 9 and 10 deal with damages for the defamation  
12 that's alleged in this case. As I said before in relation to  
13 the battery claim, the fact that I instruct you on the law of  
14 damages relating to defamation is not to be taken by you as a  
15 hint that you should decide that claim for Ms. Carroll. You  
16 will decide, on the basis of the evidence presented and the law  
17 as I gave it to you and am giving it to you, whether  
18 Ms. Carroll is entitled to recover from Mr. Trump for  
19 defamation.

20 Question 9 deals with the subject of compensatory  
21 damages for the alleged defamation, and of course you will be  
22 answering that only if you found Mr. Trump liable for that  
23 alleged defamation, which would require "yes" answers To  
24 Questions 6, 7, and 8.

25 In the event Mr. Trump is liable for defamation, you

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1 will award an amount that, in the exercise of your good  
2 judgment and common sense, you decide is fair and just  
3 compensation for the injury to the plaintiff's reputation and  
4 the humiliation and mental anguish in her public and private  
5 life which you decide was caused by the defendant's statement.  
6 In fixing that amount, if you fix one, you should consider the  
7 plaintiff's standing in the community, the nature of  
8 Mr. Trump's statement made about Ms. Carroll, the extent to  
9 which the statement was circulated, the tendency of the  
10 statement to injure a person such as Ms. Carroll, and all of  
11 the other facts and circumstances in the case. These damages  
12 can't be proved with mathematical certainty. Fair compensation  
13 may vary, ranging from one dollar, if you decide that there was  
14 no injury, to a substantial sum if you decide that there was  
15 substantial injury.

16 Now, in this case, Question 9, I have divided the  
17 damages determination into two parts, and you will see those on  
18 page 3 of the verdict form in the parts below the yes/no  
19 question. The first of those two parts asks you whether or not  
20 Ms. Carroll has proved by a preponderance of the evidence that  
21 she was injured in any of the respects I have just described.  
22 I misspoke about where on the form. The first part of  
23 Question 9, right at the top, the yes/no question asks you to  
24 decide whether Ms. Carroll has proved by a preponderance of the  
25 evidence that she was injured in any of the respects I just

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1 described. That's the yes/no question. If the answer is  
2 "yes," you first will fill in the amount you award for all  
3 defamation damages, excluding the reputation repair program.  
4 You will leave that out if you put in a figure in the first  
5 blank. That was of course the testimony of  
6 Professor Humphreys. Second, you will fill in the amount, if  
7 any, that you award for the reputation repair program only.

8 On the other hand, if your answer to the first part of  
9 Question 9 is "no"—that is, you determine that Ms. Carroll has  
10 not proved by a preponderance of the evidence that she was  
11 injured as a result of Mr. Trump's October 12, 2022  
12 statement—you will write down in the blank space provided  
13 right under the yes/no question "\$1" in nominal damages, just  
14 like in the other case.

15 Regardless of your answer to Question 9, you go on to  
16 Question 10.

17 In addition to the claim for punitive damages for the  
18 defamation, Ms. Carroll asks also that you award punitive  
19 damages for the defamation. Similar to my earlier instructions  
20 to you regarding punitive damages on the battery claim,  
21 punitive damages in relation to a libel claim—the defamation  
22 claim—may be awarded to punish a defendant who has acted  
23 maliciously and to discourage others from doing the same. Now,  
24 this is where that difference between "actual malice," which I  
25 already talked about, and "malice" or "maliciously" comes into



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1 play. I previously instructed you about "actual malice" with  
2 regard to Question 8. With regard to Question 10, I'm using  
3 the words "malice" or "maliciously," not the phrase "actual  
4 malice," and the word "malice" and the word "maliciously" for  
5 purposes of Question 10 means something different from "actual  
6 malice." A statement is made with malice or it's made  
7 maliciously for the purpose of Question 10 if it's made with  
8 deliberate intent to injure or made out of hatred or ill will  
9 or spite or made with willful or wanton or reckless disregard  
10 of another's rights.

11 If you answer "yes" to the first part of Question  
12 10—in other words, if you find that Mr. Trump acted with  
13 malice, as I have just defined that term for you, in making the  
14 October 12 statement about Ms. Carroll—you will write down an  
15 amount, if any, that you find Mr. Trump should pay to  
16 Ms. Carroll in punitive damages for the defamation. If you  
17 answer "no" to that first part of Question 10—that is, you  
18 find that Mr. Trump's statement was not made maliciously—you  
19 may not award punitive damages. Ms. Carroll bears the burden  
20 of proving by a preponderance of the evidence that Mr. Trump  
21 acted in accordance with this standard.

22 In arriving at your decision as to the amount of  
23 punitive damages, you should consider here with respect to the  
24 defamation punitive damage claim:

25 The nature and reprehensibility of what Mr. Trump did

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1 if he defamed her; that would include the character of the  
2 wrongdoing and Mr. Trump's awareness of what harm the conduct  
3 caused or was likely to cause. In considering the amount of  
4 punitive damages to award, you should weigh that factor  
5 heavily;

6 You should consider the actual and potential harm  
7 created by Mr. Trump's conduct; and

8 You should consider Mr. Trump's financial condition  
9 and the impact of your award of punitive damages, if any, on  
10 Mr. Trump.

11 Once you have answered Question 10, if you answer  
12 Question 10, you will return your verdict, your task will be  
13 over.

14 Those are my substantive instructions on the law, that  
15 is, on battery, on defamation, and on damages. Those are the  
16 rules you must apply here to the facts as you find them.

17 Now, the remaining part of what I have to say, and it  
18 is shorter, I promise, I know that you are probably ready to  
19 get up and do your job, but I need -- ah, yes. Andy, thank  
20 you, or whoever passed the note.

21 In instructing you on punitive damages on the  
22 defamation claim, I skipped over one sentence, and I will read  
23 it to you now.

24 The amount of punitive damages that you award, if any,  
25 must be reasonable and proportionate to the actual and

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1 potential harm suffered by the plaintiff, and to the  
2 compensatory damages, if any, that you award the plaintiff on  
3 the defamation claim.

4 I am now going to instruct you about the trial process  
5 and I am going to start with the burden of proof. You have  
6 already heard a little bit about that. You heard about it at  
7 the beginning of the trial, but I need to tell you about it  
8 again.

9 Ms. Carroll bears the burden of proving her claim by a  
10 preponderance of the evidence with respect to all questions on  
11 the verdict form except No. 7 and No. 8, which I will talk  
12 about separately. As I told you at the beginning, proof beyond  
13 a reasonable doubt, which is the standard that applies in a  
14 criminal trial, does not apply at all in this case and you  
15 should put it entirely out of your mind.

16 Now, to establish something by a preponderance of the  
17 evidence means to prove that the contention of the party with  
18 the burden of proof on that question is more likely true than  
19 not true. In other words, a "preponderance" of the evidence  
20 means that the party with the burden of proof on a particular  
21 question by a preponderance of the evidence has persuaded you  
22 that the odds that that person is right on that question is  
23 more than 50/50, even by the tiniest amount. It refers to the  
24 quality and the persuasiveness of the evidence, not to the  
25 number of witnesses or documents. In determining whether a

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1 claim has been proved by a preponderance of the evidence, you  
2 may consider the relevant testimony of all the witnesses,  
3 regardless of which side called them, and all the relevant  
4 exhibits received in evidence, regardless of which side  
5 produced them.

6 If, after considering all the evidence, you find that  
7 the evidence of both parties with respect to a question on  
8 which the burden of proof is a preponderance of the evidence is  
9 exactly in balance—in other words, that the chance that the  
10 plaintiff's contention or the defendant's contention is correct  
11 is exactly equal—then the party with the burden of proof on  
12 that question has failed to sustain his or her burden of proof  
13 on the particular question, and you must find for the other  
14 side on that issue. On the other hand, if the party with the  
15 burden of proof on a particular question by a preponderance of  
16 the evidence has persuaded you that its contention is more  
17 likely correct than the chances that the other side is correct,  
18 as I said, even by only a little, then you must find for the  
19 party with the burden of proof by a preponderance on that  
20 question.

21 Now, Questions 7 and 8 are different. On those two  
22 questions, and those two questions alone, Ms. Carroll's burden  
23 is to prove her claims, that is, her claim on those questions,  
24 by clear and convincing evidence. If you conclude that  
25 Ms. Carroll has failed to establish her claim with respect to

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1 the issues in Question 7, which is the falsity of the statement  
2 of October 12 and Question 8, actual malice, by clear and  
3 convincing evidence, you must decide against her on those  
4 issues. What does "clear and convincing evidence" mean? Clear  
5 and convincing evidence is a more exacting standard than proof  
6 by a preponderance of the evidence, where you need believe only  
7 that a party's claim is more likely true than not. On the  
8 other hand, clear and convincing evidence, clear and convincing  
9 proof, is not as high a standard as the burden of proof applied  
10 in criminal cases, beyond a reasonable doubt. Clear and  
11 convincing proof leaves no real substantial doubt in your mind.  
12 It is proof that establishes in your mind not only the  
13 proposition -- not only that the proposition at issue is  
14 probable, but also that it is highly probable. It is enough if  
15 Ms. Carroll establishes that Mr. Trump's statement was  
16 false—which is Question 7—and that he made the statement with  
17 actual malice—that's Question 8—beyond any "substantial  
18 doubt"; she does not have to dispel every "reasonable doubt."

19 Now, you folks, the nine of you, are the sole and  
20 exclusive judges of the facts. I certainly do not mean to  
21 indicate any opinion as to the facts or as to what your verdict  
22 ought to be. The rulings I have made during this trial are not  
23 any indication of any views on my part about what your decision  
24 ought to be or as to who should prevail here. I express no  
25 such opinion with respect to what you ought to do here.

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1           It is my duty, on the other hand, to instruct you as  
2 to the law, and it's your duty to accept these instructions on  
3 the law and apply the law as I give it to you to the facts as  
4 you determine the facts to be. I'm going to return to that  
5 before I conclude.

6           You are certainly to draw no inference from the fact  
7 that I probably, on a few occasions, asked questions of some of  
8 the witnesses or made comments to counsel about the manner in  
9 which they made their presentations. I do that to bring out  
10 the evidence more quickly, more clearly, to save time, and to  
11 ensure that the trial is conducted properly. I do not intend  
12 to suggest any view concerning the credibility of any witness  
13 or as to which side ought to prevail, and you mustn't take any  
14 comments or questions that I may have made in doing so --  
15 excuse me, as doing so. In addition, you must not draw any  
16 inferences or take into account any comments or remarks that I  
17 made to any of the lawyers when you are deliberating. You  
18 should ignore also that from time to time I was taking notes or  
19 entering things or looking things up on my computer. Whatever  
20 I may have been doing with my computer or whatever notes I may  
21 have been taking or not taking may have nothing at all to do  
22 with you and what you are concerned with in this case. You are  
23 to decide the case fairly and impartially based solely on the  
24 evidence and my instructions.

25           Now a few words about what is and isn't evidence.

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1           The evidence in this case is the sworn testimony of  
2           the witnesses, the exhibits received in evidence, and the  
3           stipulation or stipulations between counsel. I know there was  
4           at least one. I don't remember if there was more than one.  
5           You will. A stipulation, as I told you, is just an agreement  
6           between the parties as to some factual matter that you must  
7           accept.

8           What is not evidence, however, is questions,  
9           arguments, and objections by the lawyers. You are not to  
10          consider any statements that I struck or told you to disregard.

11          In deciding this case, I remind you that you are  
12          obliged to consider only the evidence you have seen and heard  
13          in this courtroom. Anything that you may have learned  
14          elsewhere that could conceivably have a bearing on this case  
15          must be disregarded.

16          Now, before I get on to the conduct of your  
17          deliberations, there are two specific bits of evidence that I  
18          need to talk about.

19          There was evidence received during the trial that  
20          Ms. Carroll claims shows that Mr. Trump sexually assaulted  
21          women other than Ms. Carroll. A sexual assault, or an  
22          attempted sexual assault on a person other than Ms. Carroll—in  
23          other words, on somebody else—may be considered by you in  
24          deciding whether Mr. Trump raped, sexually abused, or forcibly  
25          touched Ms. Carroll, as she claims, provided that Ms. Carroll

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1 has established by a preponderance of the evidence that  
2 Mr. Trump sexually assaulted or attempted to sexual assault the  
3 other person. To illustrate the point, if you find that  
4 Ms. Carroll proved by a preponderance of the evidence that  
5 Mr. Trump sexually assaulted, or attempted to sexual assault,  
6 Ms. Leeds, then you may consider that fact in deciding whether  
7 Ms. Carroll proved also that Mr. Trump raped or sexually abused  
8 or forcibly touched Ms. Carroll—in other words, in answering  
9 questions 1, 2, and 3 on the verdict form. If you do not find  
10 that Ms. Carroll proved by a preponderance of the evidence that  
11 Mr. Trump sexually assaulted, or attempted to sexual assault,  
12 Ms. Leeds, then you may not consider the alleged incident  
13 involving Ms. Leeds in deciding whether Ms. Carroll proved also  
14 that Mr. Trump raped, sexually abused, or forcibly touched  
15 Ms. Carroll—in other words, Question 1, 2, or 3 on the verdict  
16 form. That same analysis would apply to the testimony of  
17 Ms. Stoyloff.

18 Now, there are three points I need to make in relation  
19 to the evidence of alleged sexual assault or attempted sexual  
20 assault on women other than Ms. Carroll.

21 First, the term "sexual assault," solely for the  
22 purpose of considering whether Mr. Trump sexually assaulted or  
23 attempted to sexual assault women other than Ms. Carroll, has a  
24 different meaning than the other definitions of sex offenses  
25 throughout the rest of my instructions, principally and



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1 probably exclusively in relations to questions 1, 2, and 3. In  
2 determining whether Mr. Trump sexually assaulted or attempted  
3 to sexual assault Ms. Leeds or Ms. Stoyloff, he must have  
4 brought himself into contact, or attempted to bring himself  
5 into contact, without the other women's consent, with the  
6 sexual or reproductive organs of the other women, in other  
7 words, their genitals, and not merely other parts of the body.

8           Second, I used the word "attempt." The word "attempt"  
9 in this context means that Mr. Trump intended to make contact  
10 with a woman's genitals and did some act that was a substantial  
11 step in an effort to make such contact. A substantial step is  
12 something more than mere preparation or planning.

13           Third, a sexual assault on a person other than  
14 Ms. Carroll on its own would not alone be sufficient to prove  
15 that the defendant, Mr. Trump, committed the alleged rape,  
16 sexual abuse, or forcible touching of Ms. Carroll. As you  
17 consider this evidence, bear in mind at all times that  
18 Ms. Carroll has the burden of proving that Mr. Trump raped,  
19 sexually abused, or forcibly touched her.

20           Those are my instructions concerning your  
21 consideration of evidence of alleged sexual assaults or  
22 attempted sexual assaults on women other than Ms. Carroll. But  
23 just to be sure that I am clear, the definition of "sexual  
24 assault" that I have just given you applies only to your  
25 determination of whether to consider the evidence concerning

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1 alleged assaults or attempted assaults on those other women.

2 It has no application to anything else in these instructions.

3           The other item of evidence I now will address. During  
4 the cross-examination of Ms. Carroll, you heard some questions  
5 directed to her concerning an e-mail that Ms. Carroll received  
6 from another person in which the other person purported or  
7 claimed to describe an alleged episode of a TV show called  
8 *Law & Order SVU* and of Ms. Carroll's reply to that e-mail. The  
9 e-mail from the other person was not offered to prove that what  
10 the other person said in that e-mail was true. It was offered  
11 only to prove that somebody said those things to Ms. Carroll,  
12 and then you have Ms. Carroll's response for whatever it tells  
13 you about Ms. Carroll's state of mind or credibility. In other  
14 words, you can consider this other person's e-mail as evidence  
15 of what that person wrote to Ms. Carroll, telling her that  
16 there was such an episode, but not as evidence that there in  
17 fact ever was such an episode or what it may have contained.  
18 Remember I talked about the moon being made of green cheese or  
19 Limburger cheese. That's the principle I am alluding to here.

20           Now, as for other matters affecting your analysis and  
21 consideration of the evidence, just a few things to say.

22           I suspect all of you have heard the terms somewhere in  
23 your lives "direct" and "circumstantial evidence." I, for one,  
24 although I must be insane to do it, am a trial movie and TV  
25 show addict. I watch them all. And I hear all these

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1 discussions of direct and circumstantial evidence, and a lot of  
2 them are wrong. So let me tell you what it is all about and --  
3 I could not do this job without Andy. Thank you, Andy.

4 Direct evidence is evidence that you hear when a  
5 witness testifies about something that the witness knows  
6 because the witness saw it, heard it, touched it, felt it,  
7 smelled it and, in my last trial, tasted it. It was a trial  
8 about beer. That is direct evidence. The witness is telling  
9 you, because they perceived it, something about what the  
10 witness saw and knows.

11 Direct evidence can also be in the form of an exhibit.  
12 Suppose this transcript binder was an exhibit in this case.  
13 Suppose it mattered what color it was bound in or how many  
14 pages were in it. You could look at it yourself, the physical  
15 object. You could tell it's blue binding and you could check  
16 the pagination or count them. That's direct evidence,  
17 something you know because it is knowable. It is right in  
18 front of you.

19 The other kind of evidence is referred to as  
20 circumstantial evidence. Circumstantial evidence simply refers  
21 to proving fact A indirectly by offering evidence of fact B and  
22 drawing a conclusion from fact B that fact A is probably so or  
23 not probably so.

24 The wet umbrella example is always used in this  
25 courthouse. If, suddenly, people started walking into this

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1 courtroom with wet umbrellas and you couldn't see outside and  
2 it was sunny this morning when you came in, the wet umbrellas  
3 are circumstantial evidence. Your common sense tells you the  
4 weather changed. It is raining. It could be a pipe burst, but  
5 the chances are it's raining. Circumstantial evidence is  
6 logic, common sense. The bottom line, the punch line is  
7 circumstantial evidence in the eye of the law is just as  
8 valuable as direct evidence. Your verdict must be based on  
9 your conscientious evaluation of all the evidence—direct and  
10 circumstantial. If that disabused any misimpressions, good.  
11 And if it was just a new education, that's fine, too.

12 Now, we have heard the word "credibility" yesterday,  
13 didn't we, a few times. Obviously it's at issue in this case  
14 in a lot of ways. The determination of credibility in this  
15 case is up to you. It's up to you to decide how believable  
16 each witness was in the testimony the witness gave. You are  
17 the sole judges of that. You are the sole judges of how  
18 important that testimony was. In deciding on the weight to  
19 give to the testimony of witnesses, use all the tests for  
20 truthfulness you would apply in determining something important  
21 to you in your life.

22 Your decision on whether or not to believe a witness  
23 may depend on how the witness impressed you. You have watched  
24 all or substantially all of them testify. Everything a witness  
25 does or says on the witness stand counts in your determination.

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1 Did the witness appear to be frank, forthright, and candid? Or  
2 did the witness answer questions on direct examination in a  
3 responsive and forthcoming manner but answer questions on  
4 cross-examination evasively or unresponsively? You should  
5 consider the opportunity the witness had to see, hear, and know  
6 the things about which the witness testified, the accuracy of  
7 the witness's memory, the reasonableness and probability of the  
8 testimony, whether the testimony is consistent or inconsistent,  
9 and whether it is corroborated or not corroborated with other  
10 credible testimony and evidence.

11 In evaluating credibility, use your own common sense,  
12 your good judgment, your life experience. You must, in  
13 evaluating witness testimony, do so without bias or prejudice  
14 for or against either party and with an attitude of complete  
15 fairness and impartiality.

16 If in the course of your deliberations you conclude  
17 that a witness intentionally testified falsely to a material  
18 fact during the trial, you are entitled to disregard everything  
19 that witness said on the principle that one who testifies  
20 falsely as to a material fact may also testify falsely to other  
21 facts. But credibility is not necessarily an all-or-nothing  
22 proposition. You may accept so much of any witness's testimony  
23 as you think is true and accurate and reject only those parts,  
24 if any, that you conclude is false or inaccurate.

25 Now, you have heard during this trial from two expert

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1 witnesses—specifically, Dr. Lebowitz and Professor Humphreys.  
2 An expert witness is somebody who, by education and experience,  
3 has become expert in some art, science, profession, or calling.  
4 Under the rules of evidence, expert witnesses may give opinions  
5 as to matters in which they profess to be experts. They can  
6 also explain the reasons for their opinions. The purpose of  
7 expert testimony is to assist you in understanding the evidence  
8 and in coming to an independent decision.

9 In deciding on the credibility and persuasiveness of  
10 expert testimony, you should consider the expert's  
11 qualifications, his or her opinions, the bases for the expert's  
12 opinions, and all of the other considerations I have talked  
13 about in regard to witness credibility generally. You may give  
14 the testimony of experts whatever weight you think it deserves  
15 in light of everything else in this case. You shouldn't  
16 expect -- excuse me, accept expert testimony just because  
17 somebody is an expert. Even with expert witnesses, use your  
18 common sense, your good judgment, and your own life experience.

19 You each may give expert testimony as much weight, if  
20 any, as you think it deserves in light of all of the evidence.  
21 You also may reject the testimony of any expert witness in  
22 whole or in part if you conclude that the reasons given in  
23 support of an opinion are unsound or if you for other reasons  
24 don't believe or credit the expert witness.

25 Now, we are truly in the home stretch. I will stand

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Charge

1 up for a while if I can get this microphone where I can be  
2 heard.

3 You are going to retire to decide this case in just a  
4 few minutes. It's your duty to consult with each other and to  
5 deliberate with the goal of coming to an agreement. Each of  
6 you must decide for yourself the answers to the questions I  
7 have put to you, but you should do so only after considering  
8 the case with your fellow jurors, and you should not hesitate  
9 to change an opinion when convinced that it's mistaken.

10 Just give me a second.

11 Your answers to each question must be unanimous, but  
12 you are not required to give up your honest convictions  
13 concerning the effect or the weight of the evidence for the  
14 mere purpose of returning a verdict or solely because of the  
15 opinion of other jurors. Discuss and weigh your respective  
16 opinions dispassionately, without regard to sympathy, without  
17 regard to prejudice or favor for either party, and adopt that  
18 conclusion which in your good conscience appears to be  
19 consistent with the truth.

20 I need to say a word about your notes. Any notes you  
21 may have taken are for your personal use only. You each may  
22 consult your own notes during deliberations, but any notes you  
23 have taken are not to be relied upon during deliberations as a  
24 substitute for the collective memory of all nine of you. Your  
25 notes should be used as memory aids, but should not be given

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1 precedence over your independent recollection of the evidence.  
2 If you didn't take notes, you should rely on your independent  
3 recollection of the proceedings and you should not be  
4 influenced by the notes of others. The notes are not to be  
5 given any greater weight than the recollection or impression of  
6 each juror as to what the testimony may have been.

7 Again, you each must make your own decision concerning  
8 the proper answer to each question based on your consideration  
9 of the evidence and your discussions with your fellow jurors.  
10 No one should surrender his or her conscientious beliefs solely  
11 for the purpose of returning a unanimous verdict.

12 As I told you, you are going to have a printed copy,  
13 you will have plenty of printed copies of my instructions in  
14 the jury room. It will probably take us ten or 15 minutes to  
15 get them back there. You will see that the printed  
16 instructions contain here and there legal citations which  
17 usually appear in brackets. Those citations are included to  
18 aid the lawyers and me and you are to ignore them. You will  
19 probably think they are in hieroglyphics anyway. They are  
20 there because both the lawyers and I need an order trail when  
21 we are considering these instructions in case there is a  
22 question about the legal authority for the proposition just  
23 preceding the citation, but you ignore the citations  
24 altogether.

25 Now, it is conceivable that you may have questions



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1 about my instructions despite the fact that the lawyers and I  
2 have done our level best to make them as clear as they possibly  
3 can be. The procedure, if you have a question, is that you  
4 should agree on what the question is. The foreperson of the  
5 jury—and I will come to that in a minute—should make a note  
6 of what the question is. Every page and line number of the  
7 jury instructions -- to rephrase it more accurately, every page  
8 and every line of type is numbered, so if there is a question  
9 about a particular part or parts of the instructions, please  
10 include the page number and the line numbers that the question  
11 pertains to. There is a very practical reason for that. When  
12 I get a question from the jury, the lawyers have to be  
13 consulted, we all have to understand what the question is. If  
14 we don't all agree what the question means, further proceedings  
15 have to be undertaken. If we all agree what the question  
16 means, we have to discuss what the right answer is. If there  
17 is a disagreement, I decide the right answer. And the more  
18 clear we are on what the question is, the more quickly we can  
19 do that and the more responsive we can be to the question.

20 I would also, in that vein, say that if you want any  
21 of the testimony reread or provided to you in writing, we can  
22 do that. The procedure is the same. Agree on what you want, I  
23 hope. Foreperson sends in a note. Any notes that come in  
24 should be in sealed envelopes, by the way. Indicate exactly  
25 what you want as best you can—who the witness was, what the

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1 subject was, direct, cross, do the best you can. And the  
2 procedure we undergo is the same. We have to agree on what we  
3 think you are asking for, we have to decide what the right  
4 portion to read back is, and all of that takes a certain amount  
5 of time.

6 So by all means, if you want something, we will  
7 provide it to you. Be sure you need it because it takes time  
8 and we need to be responsive to save your time.

9 It also can take time to prepare the material because  
10 sometimes we send it in in writing, sometimes we bring you into  
11 the courtroom to read it, and if it's done in writing, various  
12 things have to be taken care of before it can go into the jury  
13 room.

14 All nine of you need to be there to deliberate. If  
15 somebody is missing, you are not a jury. Do not deliberate  
16 unless you are all there.

17 When you retire, you are going to select one member of  
18 the jury as your foreperson. That person will preside over  
19 your deliberations and speak for you in open court when, as,  
20 and if that becomes necessary. The foreperson, as I said, will  
21 send out any notes.

22 Now let's talk about the verdict. When you reach a  
23 verdict, the foreperson is to write a note saying "verdict."  
24 Put it in a sealed envelope. Do not label the envelope. Hand  
25 it to the officer who will be right outside the jury room. The

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1 officer will bring it to me, and I will get the people who need  
2 to be here here.

3 Now, it is 11:30. I'm going to give the lawyers a  
4 period of time to go out for lunch if they need to or feel they  
5 want to, so it may take a little time once you have reached a  
6 verdict or indeed if there is a note, depending on where people  
7 are, to get back to you. But be patient. We understand that  
8 we need to be as quick as we can and we will do that. But  
9 that's the way it will work. Note, "verdict," sealed envelope,  
10 and we will take it from there.

11 Your answers to the questions on the verdict form need  
12 to be unanimous. You also have to follow the instructions.  
13 This is not necessarily a ten-question quiz. This is like  
14 taking an exam, right? You answer Question 1. If you answer  
15 Question 1 one way, you go to Question 2. If you answer it the  
16 other way, you go to Question 4. Follow the instructions.  
17 Make sure you are following the instructions. Don't add any  
18 commentary on the verdict forms. Believe it or not, I had a  
19 jury do that once, and it was a lengthy problem for everybody.  
20 If there is editorial comment, it's a mistake.

21 Of course you know that -- well, you don't know if you  
22 have been following my instruction, but you have probably  
23 guessed that there may have been some media coverage of this  
24 case, and hopefully you have not partaken of any of it or  
25 allowed anybody to communicate it to you. And that continues.

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1 No reading, no watching, no listening to media coverage, no  
2 commentary. You are totally insulated. It is between and  
3 among the nine of you while your deliberations go on and until  
4 I take a verdict and discharge you.

5 I have already talked about notes. One more thing  
6 about notes. Do not, in a note or if for some reason you are  
7 in open court, ever say how the vote stands on anything unless  
8 I specifically ask you. Okay?

9 Now, folks, I remind you that you guys took an oath to  
10 render a fair and impartial judgment, without prejudice,  
11 without sympathy, and without fear, based solely on the  
12 evidence and the applicable law. And I want to elaborate for a  
13 minute on your obligation under that oath to render judgment  
14 solely upon the evidence in this case and the applicable law.

15 As I said, forgive me for repeating, you as the jurors  
16 are the judges of the facts, and nothing I have said or done  
17 should be taken as indicating any view on my part as to what  
18 your conclusion should be about the facts—about what actually  
19 happened. But in determining what actually happened—that is,  
20 in reaching your decision on the facts—it is your sworn duty  
21 to follow all of the rules of law that I have explained to you.  
22 You have no right to disregard or to question the wisdom or  
23 correctness of any rule I have stated to you. You must not  
24 substitute or follow your own notion or opinion as to what the  
25 law is or what it ought to be. It is your duty to apply the

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1 law as I have explained it to you, regardless of the  
2 consequences. And that applies to all of the law I have given  
3 you, including the fact that all or most of the issues of fact  
4 that I have put to you and that you will answer must be decided  
5 according to the preponderance of the evidence and the meaning  
6 of preponderance of the evidence.

7 I know you are going to do your duty under your oath  
8 and render a just and true verdict according to the facts as  
9 you find them and the law that I have given you.

10 I will ask you to remain seated for just a moment.

11 Counsel, if there are any objections to the charge as  
12 given upon which I have not already ruled, come to the sidebar.

13 (Continued on next page)  
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1 (At the sidebar)

2 THE COURT: Okay. Plaintiff, anything?

3 MS. KAPLAN: Nothing, your Honor.

4 THE COURT: Mr. Tacopina.

5 MR. TACOPINA: We have four, your Honor.

6 THE COURT: All right.

7 MR. TACOPINA: The first one is—I will refer to the  
8 instructions—page 11, on line 11. The sentence ends with  
9 "responsibility of what Mr. Trump allegedly did" in here. You  
10 injected something that is not here on the instructions and  
11 it's on page 15/line 5 of the trial transcript, "in other  
12 words" --

13 THE COURT: I'm trying to follow you, that's all. I'm  
14 puzzled because I don't know how I injected something here from  
15 page 15 of the trial transcript, but go ahead.

16 MS. KAPLAN: If you read page 15 of the trial  
17 transcript, you will see what you injected, the monitor --

18 THE COURT: All right, so let's see that.

19 MR. TACOPINA: You added, "In other words, what you  
20 find he did that got you to this point." If you are going to  
21 add that, your Honor should add, "if anything," "what he did,  
22 if anything," but this sentence was added in.

23 THE COURT: Okay. Just let me make a note. You are  
24 on line 11?

25 MR. TACOPINA: Yes, your Honor, right after here,

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1 right after "did."

2 THE COURT: What you really want there "if anything."

3 MR. TACOPINA: Well, your Honor, hold on, make sure  
4 I'm making this clear. There was a sentence that's not written  
5 here that was injected, and what you said is, "In other words,  
6 what you find he did that got you to this point." Being that  
7 you injected that sentence, I think you have to add the word  
8 "in other words, what you find he did, if anything, that got  
9 you to this point."

10 MS. CROWLEY: Judge, if we are on this question,  
11 punitive damages, then they have decided that he's done  
12 something, so I don't think --

13 MR. TACOPINA: That's happened throughout this,  
14 "allegedly did," "if he did." You don't assume -- you don't  
15 instruct the jury, in other words, what you find he did that  
16 got --

17 THE COURT: Mr. Trump, true or false, this relates to  
18 Question 5?

19 MR. TACOPINA: True.

20 THE COURT: True. The instructions are that they are  
21 not to answer Question 5 unless they answered Question 1,  
22 Question 2, or Question 3 "yes." True or false.

23 MR. TACOPINA: True, true.

24 THE COURT: Overruled. Next one.

25 MR. TACOPINA: Next page, 12, this is the only -- the

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1 other ones have to do with things you said extemporaneously.

2 THE COURT: Page 12.

3 MR. TACOPINA: 12 is, the way it is written I think is  
4 improper. "Written statements, like" --

5 MS. KAPLAN: Line?

6 MR. TACOPINA: Sorry, 21.

7 "Written statements like Mr. Trump's October 12, 2022  
8 statement constitute libel." I think that obviously should be  
9 "written statements," without referring to Mr. Trump, "if found  
10 to be defamatory."

11 THE COURT: My view is that it is fine as given, but I  
12 will clarify it.

13 MR. TACOPINA: Okay. Page 24.

14 MS. KAPLAN: 24.

15 MR. TACOPINA: Page 24, end of line 4 through line 6  
16 you didn't read this, your Honor. Page 24.

17 THE COURT: I thought I did.

18 MR. TACOPINA: No. You stopped. The last word you  
19 said was "episode may have contained."

20 THE COURT: But I made the point.

21 MR. TACOPINA: You said the Limburger cheese things.

22 THE COURT: I made the point.

23 MR. TACOPINA: You made the point, but it's written in  
24 the instructions here.

25 THE COURT: So you would like me to do it again?



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1 MR. TACOPINA: I would like you to read that sentence  
2 that you didn't read. "You may also consider Ms. Carroll's  
3 response to the e-mail to the extent, if any, that you believe  
4 Ms. Carroll's response bears" --

5 THE COURT: I'm absolutely confident that I am right  
6 about this and that, you are correct, I may not have read it  
7 exactly there, but in that context, I said it in substance.

8 MR. TACOPINA: Okay, your Honor.

9 THE COURT: Can we go back?

10 (Pause)

11 MR. TACOPINA: If that's your recollection, I'm fine  
12 with it.

13 THE COURT: I want to be sure I understand and it's an  
14 important case and I want to be sure my recollection is right.  
15 So give me a minute, and I will go look on the screen.

16 (In open court)

17 THE COURT: This will only be a minute or two, folks.

18 (At the sidebar)

19 THE COURT: I did cover it, but I'm having Andy print  
20 out the page if, of course, we can print out the page.

21 MR. TACOPINA: Okay, your Honor. Should I give you  
22 the last one or do you want to wait?

23 THE COURT: Give me the last one as long as Kris is  
24 here.

25 MR. TACOPINA: It's on page 25.

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1 THE COURT: Okay.

2 MR. TACOPINA: This first full paragraph. Instead of  
3 "you watched each witness testify" what you said was "you  
4 watched all or substantially all of them testify."

5 THE COURT: I understand your point, and I will fix  
6 it.

7 MR. TACOPINA: Thank you.

8 THE COURT: Anything else?

9 MR. TACOPINA: That's it.

10 THE COURT: Let's just see whether Andy can print this  
11 up.

12 MR. TACOPINA: So, your Honor, page 12 you said you  
13 were going to go correct?

14 THE COURT: Yes.

15 MR. TACOPINA: And then we have to change the actual  
16 instruction going back to the jury.

17 THE COURT: Don't worry about that.

18 MR. TACOPINA: I'm a little worried about it, but if  
19 you say don't worry, I won't worry.

20 THE COURT: No. Come back. We are still waiting --

21 MR. TACOPINA: I followed them.

22 MS. KAPLAN: Excuse me.

23 THE COURT: I'm waiting to print if we can do it.

24 MS. KAPLAN: Sorry, your Honor.

25 THE COURT: Andy, as always, you are a wonder.

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1 THE DEPUTY CLERK: I did not succeed with line  
2 numbers.

3 THE COURT: Okay. So where are we? Here is the  
4 transcript. "The other item of evidence I now will address.  
5 During the cross-examination of Ms. Carroll you heard some  
6 questions directed to her concerning an e-mail that Ms. Carroll  
7 received from another person in which the other person  
8 purported or claimed to describe an alleged episode of a TV  
9 show called *Law & Order SVU* and of Ms. Carroll's reply to that  
10 e-mail. The e-mail from the other person was not offered to  
11 prove that what the other person said in that e-mail was true.  
12 It was offered only to prove that somebody said those things to  
13 Ms. Carroll, and then you have Ms. Carroll's response for  
14 whatever it tells you about Ms. Carroll's state of mind or  
15 credibility. In other words, you can consider" --

16 MR. TACOPINA: Got it.

17 THE COURT: -- "this other person's e-mail as evidence  
18 of what that person wrote to Ms. Carroll, telling her that  
19 there was such an episode, but not as evidence that there in  
20 fact ever was such an episode or what it may have contained."

21 MR. TACOPINA: Thank you, your Honor. Okay.

22 THE COURT: So we have page 12 and page 24, right?

23 MR. TACOPINA: Yes, your Honor.

24 (In open court)

25 THE COURT: Okay, folks. Two little things. Counsel,

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1 quite understandably, pay close attention to whether what I say  
2 is precisely what's written down here and call to my attention  
3 anything where I perhaps departed by a word or two.

4 When I was explaining to you that I was going to use  
5 the terms "defamation and libel" interchangeably, I said  
6 "written statements, like Mr. Trump's October 12, 2022  
7 statement, constitute libel. I'm striking those words, in  
8 other words, "like Mr. Trump's October 12, 2022 statement," to  
9 avoid any implication that I was making a determination as to  
10 whether Mr. Trump's statement that day was defamatory. That's  
11 your job. The reference to Mr. Trump's October 12, 2022  
12 statement was simply another way of saying that the social  
13 media, written social media post was a written statement and  
14 because it was written, it falls into the libel category rather  
15 than the other category of defamation. It will be corrected  
16 and it will be precisely right in the copy you get, and I have  
17 just told you what was meant by it.

18 Mr. Tacopina, point me to the other reference.

19 MR. TACOPINA: Sure, your Honor. It was page 25,  
20 lines 3 and 4.

21 THE COURT: Thank you.

22 When I was talking to you about witness credibility, I  
23 made the statement "you watched" -- I think I said "all or  
24 substantially all of the witnesses testify." Well, of course,  
25 what I had in mind there is you saw almost all of the witnesses

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1 testify live in this courtroom. You also saw some deposition  
2 testimony, including Mr. Trump's. That was testifying. You  
3 are entitled to evaluate what you saw in that video in  
4 assessing his credibility and what you saw in the videos of  
5 other people in evaluating their credibility.

6 That's all I have to say in terms of corrections, and  
7 we will send you a corrected copy of the typed script as soon  
8 as you retire.

9 Now, it's a quarter to 12, and I think what we will  
10 do, I normally keep lawyers in the courtroom while a jury is  
11 deliberating so that we can get everybody together quickly if  
12 there is a note, but everybody on both sides has been working  
13 extremely hard, and we are going to have, for them, not for  
14 you—you will have your own lunch—a lunch break where if they  
15 want to leave the premises, they can. And so if there were a  
16 note or, for that matter, a verdict between 12:15 and 1:30, we  
17 may not be in a position to respond because there may be people  
18 missing and you will just have to hang out. But if there is a  
19 verdict during that period, you write the note, give it to the  
20 officer, and I will know that and we will move as fast as we  
21 can.

22 All right. Anything else, counsel, before we swear  
23 the officer?

24 MS. KAPLAN: Not for plaintiff, your Honor.

25 MR. TACOPINA: No, your Honor. Thank you.

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1 THE COURT: All right.

2 (Court and deputy confer).

3 THE COURT: You will have what has been referred to to  
4 me as a clean laptop, whatever exactly that means, in the jury  
5 room with images of all of the exhibits on it. It will take us  
6 some time to get that back to you.

7 (Deputy and court confer)

8 THE COURT: We also have a DVD player and we have some  
9 hard copies. Andy is in charge of wrangling this with the  
10 lawyers and, as fast as we can, you will get all the exhibits  
11 one way or the other. And if there is anything you find you  
12 need and you don't have, send us a note and we will fix it.

13 Okay. Let's swear the officer.

14 THE DEPUTY CLERK: Would the marshal please come  
15 forward and raise your right hand.

16 You do solemnly swear that you will keep the jurors  
17 impaneled and sworn in this cause together in some private and  
18 convenient place. You shall suffer no one to speak to them,  
19 nor shall you speak to them yourself without direction of this  
20 Court, unless it be to ask them if they have agreed upon the  
21 verdict, so help you God.

22 THE MARSHAL: I do.

23 THE DEPUTY CLERK: Thank you.

24 THE COURT: Ladies and gentlemen, you will now retire  
25 and deliberate upon your verdict.

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(Jury retires to deliberate; 11:50 a.m.)

THE COURT: Please be seated, folks.

Counsel, is there any reason why the Court should not fill media requests for copies of the verdict form, blank copies?

MS. KAPLAN: Not from our side, your Honor.

MR. TACOPINA: No, your Honor.

THE COURT: Andy will take care of it in due course.

Andy, the answer to the question is the DE can distribute the blank verdict form.

Okay, folks, we are in recess pending -- one more thing. I assume it's suitable, acceptable to counsel on both sides that you will work out whatever needs to be worked out with the exhibits and the laptop and the DVD player and all of that and that there will either be an agreement and he will, without any further court appearance, take whatever needs to go into the jury room without any further involvement by me, and if there is a disagreement, you will bring me the disagreement.

MS. KAPLAN: Absolutely.

THE COURT: Acceptable?

MS. KAPLAN: Absolutely, your Honor.

MR. TACOPINA: Yes, your Honor.

THE COURT: Done. Okay. Thanks, folks.

(Recess pending verdict; 11:51 a.m.)

(In open court; jury not present; 12:25 p.m.)

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1 THE COURT: In a superabundance of caution, my law  
2 clerk has prepared a redlined, revised copy of the jury  
3 instructions, and she is giving them to counsel. And we will  
4 mark -- is Andy here? Andy is here. Andy, would you mark this  
5 Court Exhibit D. And then I will tell you what pages there are  
6 markings on, but I invite you to scrutinize the whole thing.  
7 The pages that I have tabs on are 12, 15, 26, and 31-32.

8 MR. TACOPINA: Your Honor, just to be clear, there are  
9 pages on those five pages?

10 THE COURT: That is my understanding, but I want you  
11 to just turn all the pages and you be satisfied that there are  
12 no other marked changes. That's what my law clerk tells me.

13 MR. TACOPINA: We don't see a mark on page 12, for  
14 example, or 15 either.

15 THE COURT: Did I say 12? It's on 13. Sorry, I  
16 misread it.

17 MR. TACOPINA: Can I make a request?

18 THE COURT: Yes.

19 MR. TACOPINA: Page 13, where it says "written  
20 statements constitute libel," would I be able to -- my request  
21 would be that it say "written statements constitute libel if  
22 found to be defamatory by clear and convincing proof." Here it  
23 just says "written statements constitute libel."

24 THE COURT: Yeah, I know. Now, look. I respect  
25 lawyers doing whatever they can to get an edge and to do what



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1 they think is in the interests of their clients, and I respect  
2 you for that; but, you know, given the verdict form here, it is  
3 impossible for there to be a finding of defamation unless what  
4 you just asked me to add were satisfied. You know that. And  
5 furthermore, you didn't object to this in the charge conference  
6 yesterday. And so I understand where you are coming from, but  
7 I'm not going to do it because it's totally superfluous.

8 Okay. Anything else from either side?

9 MS. KAPLAN: About something other than the charge,  
10 your Honor?

11 THE COURT: No. I'm talking about --

12 MS. KAPLAN: Still on the charge.

13 THE COURT: Right? So my copy with these changes,  
14 Court Exhibit D, I take it there are no objections.

15 MR. TACOPINA: I just need a second, your Honor. One  
16 more second. There's five pages. One more second.

17 We're good, your Honor.

18 THE COURT: You're good. Okay.

19 So then with the agreement of all sides, I trust, my  
20 law clerk will run this in final. The final without the  
21 redline markings will be marked Court Exhibit E, and Andy will  
22 take nine copies into the jury room and give final copies to  
23 counsel on both sides.

24 Agreed, Mr. Tacopina?

25 MR. TACOPINA: Yes, your Honor.

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1 THE COURT: Ms. Kaplan?

2 MS. KAPLAN: Yes, your Honor.

3 THE COURT: Okay. Done. Now we have already eaten up  
4 your lunchtime. So if you got back at 1:45, you will be  
5 forgiven. Okay?

6 Ms. Kaplan.

7 MS. KAPLAN: One additional issue, your Honor.

8 THE COURT: I'm sorry?

9 MS. KAPLAN: One additional issue. Do you want me to  
10 raise it later?

11 THE COURT: I don't know what it is.

12 MS. KAPLAN: Okay. So, your Honor, I think you may  
13 have been provided with a copy of this. At approximately 9:04  
14 this morning, Donald Trump put up on Truth Social a statement  
15 which I could read aloud, but it could be -- have two possible  
16 meanings to people, either that the fact that he can't speak in  
17 the press is unfair to him or possibly implying that he wasn't  
18 given an opportunity to speak in his own defense in this case.  
19 That second meaning is obviously very troublesome for us. It's  
20 been picked up in at least seven journalistic -- Rolling Stone,  
21 Law & Crime, ABC already. If the jury reaches a verdict before  
22 the end of the day, there is no problem, because they are  
23 obviously sequestered and that's not an issue. If the jury is  
24 unable to reach a verdict by the close of business today, we  
25 would suggest an instruction be read to them about --

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1 basically -- I can read it to your Honor, basically suggesting  
2 that Mr. Trump had every opportunity to testify in this case  
3 and he was not prevented in any way from presenting a defense.  
4 And I can read it aloud if your Honor would like or I can hand  
5 it --

6 THE COURT: I don't think that's necessary.

7 Mr. Tacopina.

8 MR. TACOPINA: Your Honor, I mean, so what I just  
9 heard was a request for a missing witness charge or a witness  
10 statement as a whole. But let me just put this in context. I  
11 read this and, look, I had that other post removed the other  
12 day. Every other post has been removed. There has been no  
13 further post.

14 THE COURT: You know, I know you said that, and I  
15 accept that you thought it was accurate when it was  
16 communicated to me, and the other side sent me a letter a day  
17 or two ago saying it isn't true.

18 MR. TACOPINA: But it's true now.

19 THE COURT: It's true now.

20 MR. TACOPINA: Yeah, yeah, it was removed. It was  
21 removed.

22 THE COURT: When?

23 MR. TACOPINA: When they sent the letter. We all  
24 thought it was removed. They thought it. So did I. And I  
25 don't know how to search that stuff, and it was way back from

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1 April 20--whatever, when it first came up, your Honor.

2 THE COURT: So now when did you tell him -- and I'm  
3 not imputing dishonesty to you --

4 MR. TACOPINA: Yeah.

5 THE COURT: -- you understand. When you told me it  
6 had been removed, in fact it hadn't been removed.

7 MR. TACOPINA: Well, actually I didn't say that to  
8 your Honor, because I didn't see it with my own eyes. What I  
9 did say was Eric Trump's post was removed. We were discussing  
10 that and that was removed.

11 We all believed— Ms. Kaplan's side, as well—that the  
12 other post was removed, but apparently it wasn't. It was in a  
13 queue from April 26, your Honor. But it's a resolved issue.  
14 It has been removed. And I'm doing everything I can to make  
15 sure everyone is satisfied here.

16 But on this recent post, if I may address it, I assume  
17 your Honor has seen it, yes?

18 THE COURT: I've been told of it.

19 MR. TACOPINA: Okay. It is not anything that would  
20 require any instruction to a jury.

21 First of all, let's put this in context. He is --

22 THE COURT: I'm not instructing the jury.

23 MR. TACOPINA: Okay.

24 THE COURT: Look. We are dealing here with what we  
25 are dealing with --

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1 MR. TACOPINA: Yes.

2 THE COURT: -- and I have no further comment.

3 MR. TACOPINA: Okay. Thank you, your Honor.

4 1, 2?

5 THE COURT: What?

6 MR. TACOPINA: I'm more concerned about lunch right  
7 this minute. The cafeteria? Can I go to the cafeteria?

8 THE COURT: Yes, you can go to the cafeteria. You can  
9 even go out.

10 MR. TACOPINA: No, coming in is so much fun, I'd  
11 rather stay in.

12 THE COURT: Good.

13 MR. TACOPINA: Thank you.

14 MS. KAPLAN: Thank you, your Honor.

15 (Recess pending verdict; 12:32 p.m.)

16 (In open court; jury not present; 3:02 p.m.)

17 THE COURT: Good afternoon. I have received a note  
18 reading in its entirety "Verdict."

19 THE DEPUTY CLERK: Shall I get the jury?

20 THE COURT: Just give me one minute.

21 Assuming that there is in fact a verdict and, for that  
22 matter, even assuming there isn't, which doesn't seem very  
23 likely, decorum will be maintained in the courtroom. No  
24 shouting, no jumping up and down, no race for the door. Just  
25 remain seated and quiet. There are further things that have to

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1 happen in that event.

2 All right. Let's get the jury.

3 (Jury present; 3:04 p.m.)

4 THE COURT: Jurors all present.

5 Members of the jury, who is the foreperson?

6 (Juror 81 stands)

7 THE COURT: Yes, ma'am. Has the jury in fact reached  
8 a verdict?

9 THE FOREPERSON: We have.

10 THE COURT: Would you please pass the envelope to  
11 Andy. Thank you.

12 (Pause)

13 THE COURT: The clerk will publish the verdict.

14 THE DEPUTY CLERK: As to battery, did Ms. Carroll  
15 prove, by a preponderance of the evidence, that (1) Mr. Trump  
16 raped Ms. Carroll? Answer: No.

17 Question 2. Did Mr. Trump sexually abuse Ms. Carroll?  
18 Answer: Yes.

19 Question 4. Ms. Carroll was injured as a result of  
20 Mr. Trump's conduct? Answer: Yes.

21 Dollar amount that would fairly and adequately  
22 compensate her for injury --

23 THE COURT: "For that injury."

24 THE DEPUTY CLERK: For that injury or those injuries.  
25 \$2 million.

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1           Question 5. Mr. Trump's conduct was willfully or  
2 wantonly negligent, reckless, or done with a conscious  
3 disregard of the rights of Ms. Carroll, or was so reckless as  
4 to amount to such disregard? Answer: Yes.

5           How much, if any, should Mr. Trump pay to Ms. Carroll  
6 in punitive damages? Answer: \$20,000.

7           As to defamation, did Ms. Carroll prove, by a  
8 preponderance of the evidence, that, Question 6, Mr. Trump's  
9 statement was defamatory? Answer: Yes.

10          Did Ms. Carroll prove, by clear and convincing  
11 evidence, that, as to Question 7, Mr. Trump's statement was  
12 false? Answer: Yes.

13          Question 8. That Mr. Trump made the statement with  
14 actual malice? Answer: Yes.

15          Did Ms. Carroll prove, by a preponderance of the  
16 evidence, that, Question 9, Ms. Carroll was injured as a result  
17 of Mr. Trump's publication of the October 12, 2022 statement?  
18 Answer: Yes.

19          If "yes," answer a dollar amount for any damages other  
20 than reputation repair program. \$1 million.

21          If "yes," insert a dollar amount for any damages for  
22 the reputation repair program only. \$1,700,000.

23          Question 10. In making the statement, Mr. Trump acted  
24 maliciously, out of hatred, ill will, spite, or wanton,  
25 reckless, or willful disregard of the rights of another?

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1 Answer: Yes.

2 If "yes," how much, if any, should Mr. Trump pay to  
3 Ms. Carroll in punitive damages? \$280,000.

4 THE COURT: And it has affixed to it the juror  
5 numbers.

6 Is there a request for a poll, Mr. Tacopina?

7 MR. TACOPINA: Yes, your Honor.

8 THE COURT: Poll the jury, please, Andy.

9 THE DEPUTY CLERK: Juror No. 10, in seat no. 1, is  
10 that your verdict?

11 JUROR 10: Yes.

12 THE DEPUTY CLERK: Juror No. 37, is that your verdict?

13 JUROR 37: Yes.

14 THE DEPUTY CLERK: Juror No. 39, is that your verdict?

15 JUROR 39: Yes, it is.

16 THE DEPUTY CLERK: Juror No. 44, is that your verdict?

17 JUROR 44: Yes.

18 THE DEPUTY CLERK: Juror No. 48, is that your verdict?

19 JUROR 48: Yes.

20 THE DEPUTY CLERK: Juror No. 58 --

21 JUROR 58: Yes, it is.

22 THE DEPUTY CLERK: -- is that your verdict?

23 JUROR 58: Yes, it is.

24 THE DEPUTY CLERK: Thank you.

25 Juror No. 77, is that your verdict?



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JUROR 77: Yes.

THE DEPUTY CLERK: Juror No. 80, is that your verdict?

JUROR 80: Yes.

THE DEPUTY CLERK: Juror No. 81, is that your verdict?

JUROR 81: Yes.

THE DEPUTY CLERK: Verdict unanimous, your Honor.

THE COURT: Thank you.

Is there any reason why the verdict should not be  
filed and recorded and judgment entered?

Ms. Kaplan.

MS. KAPLAN: None from our side, your Honor.

THE COURT: Mr. Tacopina.

MR. TACOPINA: No, your Honor.

THE COURT: The judgment will be filed and recorded.

Any reason why the jury shouldn't be discharged at  
this time?

MS. KAPLAN: None for plaintiff, your Honor.

MR. TACOPINA: No, your Honor.

THE COURT: Members of the jury, you have done an  
important and a hard task. I never comment on jury verdicts  
because I respect the role of the jury. It is the bedrock of  
the system.

When I first began practicing law in New York, there  
was a then very elderly and distinguished judge of this Court  
who at least two members of the United States Supreme Court

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1 referred to at various times as the finest trial judge in  
2 America. His name was Ed Weinfeld. And Ed Weinfeld made it a  
3 point of principle never to thank jurors. It was his view that  
4 serving on a jury is a civic duty and a privilege of being an  
5 American.

6 I follow Ed Weinfeld almost all the time, but not on  
7 this point. It is a duty, it is a privilege, but, as someone  
8 said—and it was probably Mr. Tacopina—you were torn out of  
9 your lives, you were brought here, told not to read anything in  
10 the papers, not to talk to anybody, and to do a hard job of  
11 work; and I knew, watching you through this trial, and I know  
12 the lawyers did, too, that you paid close attention even when  
13 it wasn't riveting at the moment. You took this with the  
14 seriousness to which both sides were entitled in the great  
15 American tradition.

16 And so I, as an officer of the United States and I  
17 know on behalf of the lawyers in this case on both sides,  
18 express gratitude to you for the job you have done, whether one  
19 agrees with it or not. You did what we asked you to do and you  
20 did it conscientiously.

21 Now, in a minute I'm going to discharge you. I want  
22 to talk about anonymity for a moment. Once you leave here  
23 today, each of you individually has the right to talk about the  
24 case, to relate your experiences, and you have the right not to  
25 do that. You would each individually have the right to

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1 identify yourself as someone who was on this jury or not. My  
2 advice to you is not to identify yourselves—not now and not  
3 for a long time.

4 What I do direct is that if you are one who elects to  
5 speak to others and to identify yourselves to others, I direct  
6 you not to identify anyone else who sat on this jury. Each of  
7 you owes that to the other, whatever you decide for yourself.

8 Now, with that, I discharge you. You will go back  
9 into the jury room and collect your belongings. You will leave  
10 your notes there, they will be taken care of, and you will  
11 leave the courthouse as you have left the courthouse each day  
12 of this trial. I understand your transportation is waiting.

13 So I thank each and every one of you, and you are now  
14 discharged and may rise and leave.

15 (Jury discharged)

16 THE COURT: You may be seated.

17 Counsel, is there anything else we need to accomplish  
18 this afternoon?

19 MS. KAPLAN: Not from our side, your Honor.

20 MR. TACOPINA: No, your Honor.

21 THE COURT: All right. I thank you all, counsel, for  
22 your cooperation and for your willingness to work with each  
23 other, and for your respect for the Court—not for me, but for  
24 this institution. That's what it's about. I don't think I  
25 have anything else to say. Good job all around. Thank you,

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folks.

COUNSEL: Thank you, your Honor.

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